

**BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Interim Suspension Order)
Against:)

Thomas L. Blair, M.D.)

MBC File # 800-2019-055478

Physician's & Surgeon's)
Certificate No. G 45575)

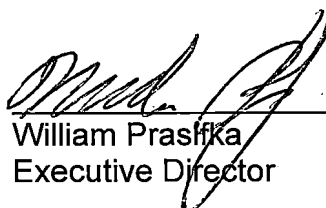
Respondent.)

**ORDER CORRECTING NUNC PRO TUNC
CLERICAL ERROR IN PORTION OF DECISION**

On its own motion, the Medical Board of California (hereafter "board") finds that there is a clerical error that adds a zero to the end of Respondent's Physician's and Surgeon's Certificate number on page 2, Paragraph 1, Line 2 and again on Page 34 in the Order section of the Interim Suspension Order in the above-entitled matter and that such clerical errors should be corrected so that the certificate number will conform to the Respondent's number.

IT IS HEREBY ORDERED that the Physician's and Surgeon's Certificate Number contained on page 2, Paragraph 1, Line 2 and again on Page 34 in the Order section of the Interim Suspension Order in the above-entitled matter be and hereby are amended and corrected nunc pro tunc as of the date of entry of the Order to read as "G 45575".

November 8, 2021



William Prasifka
Executive Director

**BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA**

In the Matter of the Petition for Interim Suspension Order

Against:

THOMAS L. BLAIR, M.D., Respondent

Physician's and Surgeon's Certificate No. G 45575

Case No. 800-2019-055478

OAH No. 2021100005

DECISION AND ORDER

Adam L. Berg, Administrative Law Judge, Office of Administrative Hearings (OAH), State of California, heard this matter telephonically on October 26, 2021.

Martin W. Hagan, Deputy Attorney General (DAG), Department of Justice, State of California, represented petitioner, William Prasifka, Executive Director, Medical Board of California (board), Department of Consumer Affairs (department), State of California.

Respondent Thomas L. Blair, M.D., appeared on his own behalf.

The matter was submitted on October 26, 2021.

FACTUAL FINDINGS

Background and Jurisdictional Issues

1. On July 22, 1981, the board issued Physician's and Surgeon's Certificate No. G 455750 to respondent. The certificate will expire on September 30, 2022, unless renewed.

2. Petitioner brought the Petition for Interim Order of Suspension (petition) in his official capacity as the board's Executive Director. The petition alleges that respondent's ability to practice is impaired due to mental illness and permitting him to continue to engage in the practice of medicine would endanger the public. On October 1, 2021, the petition, related documents, and notice of hearing were served on respondent by Fed Ex overnight delivery, at the address of record maintained by the board.

3. The same day, OAH sent respondent (by U.S. mail and email) notice of the assigned hearing date and a notice and instructions for submission of evidence to respondent. The instructions indicated that evidence in the hearing would be submitted through CaseLines, a third-party digital evidence platform, and evidence was required to be submitted one day before the hearing. The notice provided that self-represented parties without email addresses could send and serve hard copies of exhibits by mailing them to OAH. The notice also stated, "If any party is not able to use CaseLines for the hearing evidence, all other parties will provide a copy of the hearing exhibits by email or hard copy."

RESPONDENT'S MOTION TO DISMISS

4. At the start of the hearing, respondent requested dismissal of the petition because he was not provided a hard copy of the evidence 24 hours before the hearing. He argued that because he would not use CaseLines, the order required petitioner to send him a hard copy of the evidence. When it was noted that all of petitioner's evidence was attached to the petition itself, and no additional evidence was submitted through CaseLines, respondent claimed that he did not receive the petition and attached documents, which were sent to his office address, and he has since retired. He said that although his mail is forwarded to his home address, this would not be the case for documents sent by Fed Ex. He also maintained that he changed his address with the board two years ago. Respondent claimed to first receive notice of the hearing when he received the OAH notice several days before the hearing, which was forwarded to his home address.

In response, the Deputy Attorney General submitted a declaration with attached emails stating that on October 5, 2021, he emailed the petition and attached documents to respondent and provided notice of the time and date of the hearing. Respondent responded by email, "you have been report [sic] to the ca DOJ." At hearing, respondent stated that doctors are constantly being warned about email scams, and he has been advised to ignore any internet communication purporting to be from the board because all official correspondence from the board must come through the U.S. mail. He noted that even government email addresses can be "spoofed."

Respondent's motion to dismiss was denied. Government Code section 11529 is silent regarding the method of service required for a noticed hearing on a petition for interim suspension. "Due process of law does not require actual notice, but only a

method reasonably certain to accomplish that end. The means employed must be such as one desirous of actually informing the absentee might reasonably adopt to accomplish it. [Citation]." (*Baughman v. Medical Board* (1995) 40 Cal.App.4th 398, 402.) Petitioner sent the petition and attached exhibits by overnight courier to the address of record maintained by the board. By regulation, the board requires that licensees provide a proper and current mailing address and immediately notify the board of any and all changes of mailing address. (Cal. Code Regs., tit. 16, § 1303.) Because respondent has both the power and the obligation to keep the board informed of the mailing address where notices may be sent, the method of service provided by petitioner was reasonably calculated to give respondent notice of the petition.

Additionally, the DAG also provided respondent the documents on October 6, 2021, by email. While respondent might have concern about email scams, the email was sent from a state government email. Had respondent truly been concerned about the authenticity of the sender, he simply could have called the Attorney General's office and asked to speak to the DAG's whose name, address, and number were listed in the body of the email. Considering the subject of the email involved the suspension of his license, and he been aware of the board's investigation for over a year, it was unreasonable for respondent to simply presume it to be spam or otherwise nefarious. Respondent elected to ignore the email at his peril.

Similarly, there was no additional requirement that petitioner send respondent a hard copy of the evidence prior to the hearing. OAH utilizes CaseLines for submission of evidence. Although use of the platform is not required, respondent erroneously maintains that because he has chosen not to use the platform, petitioner was required by law (which he did not identify) to send him a hard copy of the evidence. Instead, respondent cited the OAH notice as authority. However, the notice provided, "If any

party is not able to use CaseLines for the hearing evidence, all other parties will provide a copy of the hearing exhibits by *email* or hard copy." [emphasis added]. The evidence relied on by petitioner in this case was sent by email on October 6, 2021, and by hard copy to his address of record. No legal grounds exist to dismiss the petition on this basis, and respondent did not request a continuance or additional time to review petitioner's evidence.

Petitioner's Evidence

5. In support of the petition, petitioner submitted declarations from Sarah Peters, Connor Thaete, and Mohan Nair, M.D. The relevant portions of the declarations are summarized as follows:

DECLARATION BY SARAH PETERS

6. Sarah Peters is a Special Investigator (S/I) for the department's Division of Investigations, Health Quality Investigation Unit (HQIU). On May 9, 2019, the board received a report that respondent was arrested by the Newport Beach Police on April 28, 2019, for driving under the influence of drugs. The matter was assigned to S/I Peters for further investigation.

7. Ms. Peters obtained a copy of an investigation report prepared by Newport Beach Police Officer W. Hume. The report, which was submitted as an attachment to S/I Peters's declaration, documented the following: Officer Hume conducted a traffic stop on a vehicle driven by respondent after responding to a report of a drunk driver and observing the vehicle swerving and being driven erratically. Upon contacting respondent, the officer observed signs of impairment including a lethargic gaze, difficulty rolling down the window, slurred speech, and low-hanging eye lids. Respondent told the officer he was a doctor who was coming from his office and had

fallen earlier in the evening. The officer observed no signs of trauma. The officer discontinued performing standardized field sobriety tests when respondent could not stand on his own. Officer Hume arrested respondent for driving under the influence. A search of respondent's pockets revealed a baggy containing 20 pills, which Officer Hume identified as Tylenol with codeine.¹ Respondent said they were prescribed to him.

Officer Hume transported respondent to the Emergency Department (ED) at Hoag Memorial Hospital (Hoag Hospital) for medical clearance based on respondent's report of having sustained a head injury. Officer Hume interviewed respondent, who reported taking two Tylenol/codeine pills two hours earlier. Respondent said the medication made him feel drowsy, but that he was a doctor, and his driving and sobriety were not impaired. Officer Hume contacted the reporting party who indicated that respondent was driving his vehicle on the freeway in excess of 100 miles per hour.

8. S/I Peters obtained the medical records for respondent's evaluation at the hospital. The attending physician documented that respondent admitted to taking Tylenol/codeine and tramadol. The physician did not observe any signs of trauma to respondent's head. Respondent reported he might have caught "a bug that makes you sleep for days" from his roommate. Urine toxicology was positive for barbiturates. A CT scan and MRI were performed. Respondent was discharged and transported to jail.

¹ Tylenol (acetaminophen) and codeine, also known as Tylenol #3, a pain-reliever, is a Schedule III controlled substance pursuant to Health and Safety Code section 11056, subdivision (d), and a dangerous drug pursuant to Business and Professions Code section 4022.

9. On September 19, 2019, S/I Peters received a toxicology report from the Orange County Crime Lab, which analyzed the blood draw following respondent's arrest. The sample was positive for acetaminophen, butalbital, caffeine, and dextrophan/levorphanol. S/I Peters provided the toxicology report to these to the board's District Medical Consultant James Nuovo, M.D. She also obtained Controlled Substances Utilization Review and Evaluation (CURES) reports for respondent as a patient, and as a prescribing physician, which she also provided to Dr. Nuovo.

10. On March 20, 2020, respondent pled guilty to driving under the influence of drugs in violation of Vehicle Code section 23152, subdivision (f). The court placed respondent on three years' summary probation.

11. On August 25, 2020, Dr. Nuovo sent an email to S/I Peters noting that the toxicology report was positive for butalbital, acetaminophen and caffeine, the combination of which is marketed under the trade name of Fioricet, used to provide relief for tension headaches.² Respondent's blood also tested positive for dextrophan/levorphanol.³ However, the CURES report indicated respondent was only

² Fioricet is not federally scheduled as a controlled substance, but because it contains, butalbital, a barbiturate, it is a Schedule III controlled substance under Health and Safety Code section 11056, subdivision (c)(3) and a dangerous drug under Business and Professions Code section 4022.

³ Dextrophan is a derivative is a metabolite of dextromethorphan, a psychoactive drug of the morphinan class, which acts as a cough suppressant and dissociative hallucinogen that is also subject to abuse. Levorphanol is a narcotic analgesic used to treat pain and is a Schedule II controlled substance pursuant to

prescribed tramadol⁴ from two different nurse practitioners (NPs), who in turn, respondent was prescribing stimulants and benzodiazepines. Dr. Nuovo also identified several patients for whom he believed respondent was prescribing unsafe combinations of controlled substances. Dr. Nuovo was also concerned that respondent appeared to be prescribing controlled substances after his subsequent retirement.

12. On September 24, 2020, S/I Peters requested authorizations for the release of medical records for his evaluation at Hoag and for the medical records by the NPs who prescribed respondent the tramadol. She also sent him a form to see if he would voluntarily submit to a physical and mental evaluation. Respondent sent S/I Peters an authorization for the Hoag Hospital records and a voluntary agreement to submit to a mental and physical evaluation. He also submitted a 10-page email, in which he declined to provide authorization for the NPs' records "to the Dear Sarah Peters." He also expressed displeasure with the board's medical consultant, Dr. Nuovo, (describing him as a "NAZI Gestapo Agent" and "bogus medical consultant by every measure"), and the Hoag Hospital ED physician (calling him the "so-called doctor" and an "ER clown").

Health and Safety Code section 11055, subdivision (c), and a dangerous drug pursuant to Business and Professions Code section 4022.

⁴ Tramadol is a centrally acting synthetic opioid used to treat pain, is a Schedule IV controlled substance pursuant to Health and Safety Code section 11057, subdivision (d), and a dangerous drug pursuant to Business and Professions Code section 4022.

DECLARATION OF CONNOR THAETE

13. Connor Thaete is an Investigator⁵ for the HQIU assigned to the Tustin Field Office. In December 2020, Inv. Thaete was assigned respondent's case. On January 28, 2021, Inv. Thaete sent respondent four signed medical releases for four of his patients and requested he produce certified medical records for each.

14. In response, on February 17, 2021, respondent faxed Inv. Thaete a four-page single-spaced letter. The letter, which Inv. Thaete attached to his declaration and was also offered by respondent as evidence at this hearing, was disjointed, unorganized, contained multiple spelling and grammatical errors, and often repeated the same information in various places. Substantively, respondent stated he would not comply with the board's record request because the signatures on the forms did not match the signatures he had on file for the patients, and the forms used were unlawful. Respondent railed against Inv. Thaete, the board, and Dr. Nuovo, accusing them of negligence, corruption, and illegal activity. He accused Inv. Thaete of bullying his patients, repeating the same statements multiple times within a single paragraph. He accused Inv. Thaete of violating CURES regulations. He maintained (incorrectly) that Fioricet should never have been entered into CURES because it is not a controlled substance, and the board's medical consultant was incompetent for believing that it is a controlled substance. As such, he demanded that Inv. Thaete "shut down" the CURES system. He concluded by saying he would be swearing out a complaint against Inv. Thaete with the Tustin Police Department.

15. On February 21, 2021, Inv. Thaete contacted one of the patients Dr. Nuovo identified, R.C., who had not returned a signed release of records. R.C. reported

⁵ DOI investigators are sworn peace officers.

that he was in a bad accident, did not have a place to stay, and respondent offered R.C. a place to stay. R.C. currently lived with respondent, and respondent had been providing him tramadol and codeine for approximately two years. R.C. had never taken these prescriptions, but instead, gave them to respondent because he felt pressured to do so. He did not want to lose his place to stay and access to healthcare. R.C. described respondent as a drug addict. Respondent told R.C. to sign the release "sloppy" so respondent could contest the legibility of the signature.

16. On February 24, 2021, Inv. Thaete called respondent to schedule his mental status evaluation, at which time respondent revoked his agreement because attending the evaluation was unsafe due to COVID-19. Respondent refused Inv. Thaete's offer to have the evaluation performed remotely. Respondent also refused to provide medical records for three of the patients because he claimed the signatures did not match those he had on file.

17. Inv. Thaete obtained updated CURES reports for respondent showing he was being routinely prescribed tramadol 50 mg (8 per day) by a NP. A CURES report for patient R.C. showed that R.C.'s address was the same as respondent's, and respondent was prescribing him various controlled substances such as testosterone cypionate, alprazolam 2 mg (4 per day), Tylenol-codeine phosphate 300 mg/60 mg (8 per day), Lomotril, Fioricet (7 per day), tramadol 50 mg (4 per day), and phendimetrazine.

18. On February 26, 2021, respondent faxed Inv. Thaete a three-page letter addressed to Inv. Thaete's supervisor, withdrawing his consent to submit to a mental/physical examination and expressing his displeasure about the investigation. That letter, which was attached to the declaration and submitted as evidence by respondent, was of similar quality to the previous letter. It had many of the same

rambling themes and was often disjointed and tangential. He would frequently jump from one topic to another, and then repeat himself later in the letter. In this letter, respondent withdrew his consent to a physical/mental examination because the board failed to act within a reasonable amount of time for the evaluation, claiming it was over a year (although the authorization was not signed until October 2020).

Respondent criticized the medical release forms used by the department and described them as illegal and an "abuse of power." Respondent alleged that at least four of his patients told him Inv. Thaete never spoke to them, so Inv. Thaete lied when he said he had. He accused Inv. Thaete of dishonesty and corruption throughout. He said that medical record authorization forms were invalid because the signatures did not match the signatures on file in his office, and any "3rd grader" could see that the signatures were invalid. Respondent then jumped to discussing the state of the medical board 40 years ago, then reiterated complaints already made about Inv. Thaete, the forms the board uses, the manner in which he obtained consent, and the negligence of the department.

19. On April 2, 2021, Inv. Thaete sent respondent a final notice letter pertaining to the records of three patients who had provided medical releases.

20. On April 15, 2021, Inv. Thaete went to respondent's residence. Respondent declined Inv. Thaete's request to submit to a voluntary urine screen. Respondent declined to answer any questions about his medications except that he was taking tramadol for fibromyalgia. He also refused to provide medical records stating that the releases were fraudulent.

21. On April 16, 2021, respondent faxed Inv. Thaete two letters of similar quality and tone to the previous letters. Respondent stated he would not produce the requested medical records for the three patients who provided Inv. Thaete with

medical releases, he repeatedly asserted Inv. Thaete had "BULLIED" patients into signing releases, that Dr. Nuovo had illegally reviewed his CURES report, that Inv. Thaete was harassing him and violating his civil rights, that he intended to file a complaint against Inv. Thaete with the Tustin Police Department, and that he intended to sue Inv. Thaete.

22. On June 3, 2021, the board issued an order compelling respondent submit to mental and physical examinations pursuant to Business and Professions Code section 820.

DECLARATION OF MOHAN NAIR, M.D.

23. Mohan Nair, M.D., is board-certified by the American Board of Psychiatry and Neurology, with subspecialty certifications in brain injury medicine, forensic psychiatry, child psychiatry, and psychiatry. He is also certified by American Board of Pain Medicine and American Board of Preventative Medicine with a subspecialty certification in addiction medicine. Since 1983, he has maintained a psychiatric private practice.

24. The board retained Dr. Nair to conduct a mental evaluation of respondent to determine if he was safe to practice medicine. On July 7, 2021, Dr. Nair conducted an examination summarized in an evaluation report as follows:

25. Dr. Nair took a narrative of respondent's explanation for his arrest. Respondent said he had gone to his office to catch up on paperwork, but he was excessively tired, so rested at his office. When going to the bathroom, he fell and hit his head but did not lose consciousness. He went to a cabinet to take what he thought was ibuprofen, but it turned out to be Fioricet. When he was almost home, he was stopped by the police. When he was taken to the hospital, he told the doctor he had a

concussion. They performed a CT scan which showed a bleed, but a subsequent MRI was okay. A lawyer took care of the court matter, which he settled because he was "too busy." Respondent believed the events occurred because of Epstein-Barr Virus (EBV), which causes mononucleosis (mono). He believed he was infected while working at Chapman University student health. He denied telling the officer that he took Tylenol/codeine and wanted to report the officer and ER doctor for providing false information. He spoke extensively about Inv. Thaete and accused him of breaking into building.

Respondent retired in December 2019 but continues to work once per week at Chapman University student health.

Dr. Nair reported taking tramadol for fibromyalgia. He said tramadol was not an opioid. He reported taking two 50 mg tablets twice a day but does not take it every day. He denied using Tylenol/codeine in any recent times. Respondent denied any substance abuse problems. He said CURES is an "absolute failure." Respondent denied any emotional problems or mental illness.

Dr. Nair noted respondent's mood was irritable, and he was labile, argumentative, and suspicious/paranoid. Respondent was tangential at times, and frequently expressed anger (including the use of profanity) about the board's investigation. He demonstrated a lack of insight and judgment. For example, he continued to insist that his mental state and actions prior to his arrest were not unsafe, even after the police report was read to him showing he could barely stand on his own.

Dr. Nair reviewed the police reports, toxicology report, respondent's CURES report, and medical records from Hoag Hospital. Dr. Nair indicated that respondent

refused to provide any other medical records. It does not appear Dr. Nair received any of the letters written by respondent to Inv. Thaete.

Dr. Nair performed psychological testing in the form of the Minnesota Multiphasic Personality Inventory 2 (which was invalidated due to inconsistent responding); the Millon Clinical Multiaxial Inventory-III, and the Structured Inventory of Malingered Symptomatology. Although Dr. Nair reported the results, he did not discuss the results in terms of his ultimate conclusion.

In conclusion, Dr. Nair believed that respondent has a mental illness or condition that impacts his ability to safely practice medicine. He believed respondent's use of tramadol, an opioid, without clear justification and unwillingness to provide his medical records raises concerns about his mental functioning. Respondent continued to maintain that he was safe to drive at the time of his arrest shows marked lack of insight and judgment. During the exam, respondent was labile and argumentative. Dr. Nair expressed concern that he was diverting medications prescribed to patients for his own use, which was supported by respondent's claim of "accidentally" taking Fioricet the day of his arrest and the unexplained presence of levorphanol in his blood. He diagnosed respondent with an opioid use disorder and dependence based on his longstanding use of tramadol. His lack of insight at the time and present and mood disorder, not otherwise specified, rule out frontotemporal dementia. His impulsivity and poor judgment leave his decision-making and interaction with patients to be problematic and risk-ridden. Moreover, respondent does not appreciate he has a problem.

Dr. Nair recommended respondent undergo neurological, neuropsychological, and a physical examination. However, he concluded respondent is not safe to practice

at this time, and continued practice poses a danger to the health, safety, and welfare of the public.

Respondent's Evidence

26. Respondent did not directly submit any evidence to OAH by the means specified in the October 1, 2021, Notice. Instead, respondent faxed several documents to Inv. Thaete the day before the hearing, which DAG Hagan filed electronically with OAH. DAG Hagan then emailed respondent stating he was forwarding the documents to OAH, provided the date and time of the hearing, and provided OAH's phone number should respondent have any questions. In response to the email, respondent sent two emails. The first began, "I do not know who in the HELL you are but I do not log into accounts or use unsolicited passwords for any reason what so ever." Respondent then spoke about scams, stated that only valid communication from the State will come by U.S. mail, and said the Attorney General's office would never issue such an email.

Several hours later, respondent sent a second email. The email is reproduced in its entirety, and verbatim, as it tracks respondent's oral argument at hearing and is directly relevant to respondent's current functioning:⁶

You are way past the statue of limitations which also applies to you to. Reinstate my license as even now you have no cause because of the investigation of this incompetant investigator. These employees are sandbagging their investigations just to keep their jobs

⁶ All spelling, punctuation, and grammatical errors are contained in the original.

during the pandemic at the expense of the people of California. This is Fraud plain and simple. At the Tustin office, Investigator Thaete has broken into my house twice. Then he sent me to a doctor who has advanced dementia and he used another doctor who was dressed up in a plastic sheet who then exposed me and his all of his other patients to God Knows what. Today, Mr. Thaete was suppose to exchange documents by fax but he failed to do that by the 2 pm/24 hour deadlineeven though, I sent mine to him. At this point, his case is all over and by law, this case must be dismissed. Since that can be the only outcome, you have no cuase to suspend my license. I have been retired for the past 2 years anyway. Mr Thaete is a world class idiot. He also failed to answer nine basic questions such as "who was his buddy that he brought on a JOY RIDE FROM TUSTIN TO NEWPORT BEACH. This person is a A WITNESS AGAINST HIM s Cooner took him with him when Mr. Thaete broke into my security building. Mr. Thaete broke into my building the second time by coming in though the back stairs. coming in though WHEN HE BROKE IN THE FIRST TIME, He was advised by myself to never do that again and he was told how access my building properly. But then he did the samething again A COUPLE OF MONTHS later. After he did this the first time, I ADVISED HIM WITHIN A LETTER ABOUT THE PROPER WAY TO ENTER THIS BUILDING. BUT, ONCE AGAIN THEN HE DECIDED TO EVADE SECURITY ANYWAY

AND HE ENTERED THIS BUILDING VIA THE BACK STAIRS. I DO NOT PAY TAXES FOR YOUR PRETEND INVESTIGATORS TO BREAK INTO MY HOUSE OR FOR YOUR INVESTIGATORS TO GO ON DAILY JOY RIDES WITH THEIR BUDDIES. THIS IS ILLEGAL. HE HAS ALSO MIS-USED CURES. But, The AG has done nothing to enforce the CURES privacy rules that were put in place by his own department. Every wanna-be investigator in the Consumer Protection Department has no business to use cures with out cause. CURES is not a CARD BLANC system for an investigator to go fishing in. BUT, THEY DO. Mr Theate has also failed to give me or anybody else infomed consent regarding the negative consequences that could result to them because of his investigation. INFORMED CONSENT IS THE LAW in this state. HE also failed to properly complete a basic medical records release or to obtain valid signatures for his releases(I have to assume that he may of signed them all himself) and None of his signatures matched the verified signature that I had on file. He never even gets an official ID from the people that he asks to sign his papers. However, this is the protocol of the The State. But, The AG has done nothing to enforce the CURES privacy rules that were put in place by his own department. Every wanna-be investigator in the Consumer Protection Department has no business to use cures with out cause. CURES is not a CARD BLANC system for an investigator to go fishing in. BUT, THEY DO. Mr Theate has

also failed to give me or anybody else informed consent regarding the negative consequences that could result to them because of his investigation. INFORMED CONSENT IS THE LAW in this state. HE also failed to properly complete a basic medical records release or to obtain valid signatures for his releases(I have to assume that he may of signed them all himself) and None of his signatures matched the verified signature that I had on file. He never even gets an official ID from the people that he asks to sign his papers. However, this is the protocol of the The State. Then he had a Subponea sever break into my building too ... but, it was clearly Mr. Thaete's responsibility to tell this server the proper way to enter my building. I have recieved many complaints from former patients that Mr. Thaeta had invaded their privacy and then he tried to BULLY them. Maybe, Mr. Thaete can move to MINNIAPOLIS WHERE THEY KNOW WHAT TO with police BULLIES. He has given the Medical Board a terrible reputation. He also just about drove one of my old fragile psychriatic patients to the brink of suicide and that was NOT cool for the reputation of the Medical Board either. Mr. Thaete has never even interviewed me even once .. How does that make for an a proper investigation. If he had, He would of found out that I had severe MONO AND the CMV VIRUS when I was Hospitalized and this was verified by the Labs that my own doctor did and the last time that I checked, being acutely

ill is no reason to suspend my Medical License WHEN THAT STORY HITS THE MEDIA IT WILL MAKE THE STATE LOOK LIKE A BOAT OF FOOLS AND IDIOTS. I am tired of Mr Thaete, he blew his case big time he should be fired at the very least. He did not fax me his papers by 2 pm deadline today. So, at this point THIS CASE IS OVER. You have no choice, especially since the statue of limitations lapsed ON THIS INCIDENT IN August 2021. Please Do not write me again. Please send all communication by US Mail.

AT 2 PM TOMMORROW, I will submit a motion to dismiss this case as your EARNST WHILE INVESTIGATOR BOY BLEW IT. You have no legal ground to procede as he failed to comply with the legal process for the sharing of evidence.

I will now be submitting several complaints to the appropriate Departments to have the Tustin Field Office investigated for their corruption and fo their fraud against the people of California. I also plan to do an expose' for the media to review the failure of CURES system. It is costing the state way to much ... and even though it has been a statisitcal failure, it is now it is being silently extended. But most importantly, this is not NAZI GERMANY and People do not like to spied upon ... the NSA found that out. Every citizen that I have ever explained this system to was not only HORRIFIED but they were appalled by the concept Of CURES. The tenth amendment maked the federal

compulsion very questionable. People that I have talked to have wanted to start a proposition to have the system closed and its legal basis repealed. I am retired now so I have all the time in the world to make this happen ... and the big fight will be fought in the Media as this is not NAZI Germany or a banana republic!!! CURES has been a huge failure. It has driven more people to use illegal street drugs than in any time in the history of California. CURES drives people away from the medical system. In 5 years it has failed to ever reduce drug abuse. The IRS only gives a business 2 years to succeed and CURES has had twice that time. Like I said before, The AG can not even enforce its own privacy safeguards and I have documented plenty examples of that. The AG should be fined and this office should be reprimanded by the legislature for its neglectful actions relative to CURES. The various so called investigators of the Consumer Protection Department use this system as their daily entertainment. The Employees of this department have also been engaged in a conspiracy of fraud just to keep their jobs when the rest of the citizens of this state have endured a great hardship during the pandemic....this is not funny. The performance statistics of this department will certainly verify this conspiracy of fraud. The administration of this state has eaten off the fat of the suffering public for far to long. The media attention will all come out right before the next election. Hopefully the

people of this state will finally clean out a very corrupt Administration.

The law of California also applies to everybody that works for this state. I have been advised that I can place Mr. Thaete under arrest for his trespassing (which was caught on the stair door cameras), but then again, since he brought his buddy with him, he has actually provided me with a witness to his trespassing activity. He had no right to break in into my house. This was an illegal action by Mr Thaete. As soon as I learn his Buddies name, I will send over the Newport Police to pick up Mr Thaete to take him to jail and book him. He broke the law and obviously, he seems to think that the law does not apply to him. It does apply to him it also applies to you and it applies to the rules of Evidence. You have no cause to suspend my license. But it is certainly time for you to look into MR THAETE'S CORRUPTION, his chronic negligence, and into his persistent illegal activities. He is a corrupt employee and he should not be working for the state of California. The same is true with his supervisor and with the rest of the Tustin Field Office. This Office has run its own scam for too long. This Field Office is a renegade operation.

I am retired and I want to try to leave California a better place that it is now. I now have all of the time in the world to do it.

One last time, IT IS OVER MR. Thaete had his chance, but he blew it he put me into danger at a doctors office who was not complying with the proper Pandemic protocols and then he had a doctor with advancing dementia try to evaluate my psychology. Obviously the Medical Board has no re-certification/ re-credentialing of it consultants or any periodic fitness of duty evaluations. The same doctor used a fraudulent psychological screening test which he probably billed to the state just to get extra income ... yet, Mr Thaete has done nothing. This is corruption.

Thom Blair MD

27. At hearing, respondent confirmed that he wished to have the documents he faxed to Inv. Thaete to be considered as evidence. The documents were: a general information sheet regarding Mono; an October 9, 2021, letter to Dr. Nair; letters from respondent to Inv. Thaete dated February 15, April 16, and October 24, 2021, a February 24, 2021, letter from respondent addressed to Inv. Thaete's supervisor; and a document entitled CURES Regulations.

28. The earlier letters to Inv. Thaete were discussed extensively above. The October 24, 2021, letter contained similar themes as discussed in his previous letters and in the email to DAG Hagan, reproduced above. The following is a summary of additional points raised in the letter and during his oral argument:

29. Respondent alleged that the Hoag Hospital doctors and the board's medical consultants failed to take a valid medical history, which constitutes negligence, and invalidates any conclusion. The doctor at Hoag Hospital in particular,

failed to appreciate that respondent had an elevated white blood count, which was indicative of infection. He should have asked respondent questions about his symptoms and medical history. If he had, respondent would have told him that he had been sleeping for more than 16 hours that day before he had taken any medication. If he had reviewed respondent's complete medical history, he would have also learned that respondent had worked at Chapman University Student Health Center where there was an epidemic of mono. Moreover, the doctor never performed a physical examination. Respondent plans to file a complaint against him to the board. Respondent asked his current doctor to run a battery of viral tests, which show he has elevated EBV antibodies/antigens.⁷ Inv. Thaete is just as incompetent as the ED doctor because he forwarded the ED evaluation to all the board's medical consultants, which was "grossly inappropriate," and tainted the diagnostic process of the consultants.

30. Respondent repeated his criticism of Inv. Thaete's multiple violations of the law, and repeatedly accused him of trespassing because he bypassed the security door to his building's lobby. He repeatedly expressed that he would have Inv. Thaete arrested as soon as Inv. Thaete provided the identity of the other investigator who accompanied him.

31. Respondent accused Inv. Thaete of bullying his patients, including R.C., who respondent offered a place to stay when he became homeless. R.C. is psychiatrically fragile and Inv. Thaete almost pushed him to suicide. Any statements by R.C. should not be credited.

32. Respondent discussed how the neurological consultant wore a sheet to cover his body as part of his COVID-19 protections, which made him look like

⁷ Respondent submitted a copy of these results as evidence.

"SpongeBob SquarePants," and the plastic sheet exposed him to "God knows what." Respondent wrote extensively about how this was poor infection control and otherwise criticized the neurological consultant and evaluation, and that he would be submitting a complaint to the board. However, as the neurological examination was not offered as evidence by petitioner, respondent's objections to it need not be further discussed.

33. Respondent believes that Dr. Nair has "serious problems" because he asked respondent the same question six times in a row and repeated other questions he had already asked. Respondent believes that his behavior was a clear sign of advanced dementia. Because Dr. Nair might not be aware of the problem, respondent decided the only ethical thing he could do was to write Dr. Nair a letter to encourage him to seek medical evaluation, which he also submitted as evidence. In both his letter to Inv. Thaete and to Dr. Nair, respondent discussed extensively his experience with dementia and his own father. Respondent concluded that Dr. Nair should not be performing medical evaluations and the board and Inv. Thaete were grossly negligent to work with such a consultant.

34. Respondent criticized the standardized tests administered by Dr. Nair and disputed that one test was in fact standardized. He criticized the test as having duplicative questions, "presumptive questions," and were written by someone who did not have a good background in the English language. Thus, Dr. Nair was using a "fraudulent test" and if Dr. Nair has billed for a standardized test, then this is obvious fraud. Respondent is "well-versed" in most of the standardized tools and he resents "being lied too [*sic*]."

35. Respondent further criticized Dr. Nair, who he said is supposedly a certified addiction expert, because he tried to tell respondent tramadol is an opioid,

which is misinformation perpetuated by the media during the opioid crisis. According to the Physician Desk Reference (PDR) tramadol is a serotonin class medication similar to Prozac. It is not an opioid because it is not derived from opium, which is the actual definition of an opioid drug. The "so-called" expert should have known this very basic information and should not get his medical information from Fox News. This "outrageous mistake" indicates his "fund of knowledge" is very deficient. By law, respondent must submit a complaint to the board about an impaired memory practitioner who is using a fraudulent psychological test.

36. Respondent repeated how all of the doctors violated the Medical Practice Act by failing to do a medical history. Respondent reiterated much of the information he already expressed.

The objective findings from his lab results show he had a serious infection of Mono compounded by a co-infection of "Cytomegalia Virus" [s/c], which explain why he slept 16 hours, then tripped, causing a concussion. Respondent said he accidentally took Fioricet, rather than "Dulexis," [s/c] a product containing ibuprofen. He said this product has similar shape to ibuprofen. However, there is no set dose or blood level of Fioricet that can be defined as impairing. Fioricet is not a controlled drug or scheduled medication, although Fiorinal is, because it contains aspirin, which interacts with butalbital. Respondent denied taking Tylenol/codeine although he admitted during oral argument that his roommate (R.C.) had given some of his Tylenol/codeine in the past when respondent was in severe pain.

Respondent concluded that based on the above information, the board violated his rights by extensively checking CURES as it did. He will be seeking prosecution for the multiple violations of his privacy and that of his patients. He argued the board exceeded the "statue [s/c] of limitations for any cause of action. For these reasons and

because of the total lack of credibility of your actions and the lack of creditability [sic] of your consultants, this case must be dismissed."

LEGAL CONCLUSIONS

1. Government Code section 11529 provides:

The administrative law judge of the Medical Quality Hearing Panel established pursuant to Section 11371 may issue an interim order suspending a license, imposing drug testing, continuing education, supervision of procedures, limitations on the authority to prescribe, furnish, administer, or dispense controlled substances, or other license restrictions. Interim orders may be issued only if the affidavits in support of the petition show that the licensee has engaged in, or is about to engage in, acts or omissions constituting a violation of the Medical Practice Act or the appropriate practice act governing each allied health profession, or is unable to practice safely due to a mental or physical condition, and that permitting the licensee to continue to engage in the profession for which the license was issued will endanger the public health, safety, or welfare. The failure to comply with an order issued pursuant to Section 820 of the Business and Professions Code may constitute grounds to issue an interim suspension order under this section.

(b) All orders authorized by this section shall be issued only after a hearing conducted pursuant to subdivision (d), unless it appears from the facts shown by affidavit that serious injury would result to the public before the matter can be heard on notice. Except as provided in subdivision (c), the licensee shall receive at least 15 days' prior notice of the hearing, which notice shall include affidavits and all other information in support of the order.

[¶] . . . [¶]

(e) Consistent with the burden and standards of proof applicable to a preliminary injunction entered under Section 527 of the Code of Civil Procedure, the administrative law judge shall grant the interim order if, in the exercise of discretion, the administrative law judge concludes that:

(1) There is a reasonable probability that the petitioner will prevail in the underlying action.

(2) The likelihood of injury to the public in not issuing the order outweighs the likelihood of injury to the licensee in issuing the order.

(f) In all cases in which an interim order is issued, and an accusation or petition to revoke probation is not filed and served pursuant to Sections 11503 and 11505 within 30 days of the date on which the parties to the hearing on the

interim order have submitted the matter, the order shall be dissolved.

Upon service of the accusation or petition to revoke probation the licensee shall have, in addition to the rights granted by this section, all of the rights and privileges available as specified in this chapter. If the licensee requests a hearing on the accusation, the board shall provide the licensee with a hearing within 30 days of the request, unless the licensee stipulates to a later hearing, and a decision within 15 days of the date the decision is received from the administrative law judge, or the board shall nullify the interim order previously issued, unless good cause can be shown by the Division of Medical Quality for a delay.

(g) If an interim order is issued, a written decision shall be prepared within 15 days of the hearing, by the administrative law judge, including findings of fact and a conclusion articulating the connection between the evidence produced at the hearing and the decision reached.

...

2. Business and Professions Code section 820 provides:

Whenever it appears that any person holding a license, certificate or permit under this division or under any initiative act referred to in this division may be unable to practice his or her profession safely because the licensee's

ability to practice is impaired due to mental illness, or physical illness affecting competency, the licensing agency may order the licentiate to be examined by one or more physicians and surgeons or psychologists designated by the agency. The report of the examiners shall be made available to the licentiate and may be received as direct evidence in proceedings conducted pursuant to Section 822.

3. Business and Professions Code section 822 provides:

If a licensing agency determines that its licentiate's ability to practice his or her profession safely is impaired because the licentiate is mentally ill, or physically ill affecting competency, the licensing agency may take action by any one of the following methods:

(a) Revoking the licentiate's certificate or license.

(b) Suspending the licentiate's right to practice.

(c) Placing the licentiate on probation.

(d) Taking such other action in relation to the licentiate as the licensing agency in its discretion deems proper.

The licensing agency shall not reinstate a revoked or suspended certificate or license until it has received competent evidence of the absence or control of the condition which caused its action and until it is satisfied that with due regard for the public health and safety the

person's right to practice his or her profession may be safely reinstated.

4. Business and Professions Code section 2230.5, subdivision (a), provides that any accusation filed against a licensee must be filed within three years after the board discovers the act or omission alleged as the ground for disciplinary action, or within seven years after the act or omission alleged as the ground for disciplinary action occurs, whichever occurs first.

Evaluation

5. An interim suspension order or the imposition of other license restrictions may be issued if respondent has engaged in, or is about to engage in, acts or omissions constituting a violation of the Medical Practice Act, or is unable to practice safely due to a mental or physical condition, and that permitting him to continue to engage in the practice of medicine will endanger the public health, safety, or welfare. (Gov. Code, § 11529, subd. (a).) An interim suspension order may be issued in the exercise of discretion if petitioner established there is a reasonable probability the board would prevail in the underlying action, and the likelihood of injury to the public in not issuing the order outweighs the likelihood of injury to the licensee in issuing the order. (*Id.*, subd. (e).)

6. A preponderance of the evidence established that respondent violated the Medical Practice Act by using or administering to himself a controlled substance, or using a dangerous drug to the extent, or in such a manner as to be dangerous or injurious to himself, or to any other person or to the public. (Bus. & Prof. Code, § 2239, subd. (a).) Respondent plead guilty and was convicted of a violation of Vehicle Code section 23152, subdivision (f), which is conclusive evidence that respondent drove

under the influence of drugs and cannot be collaterally challenged in an administrative proceeding. (*Arneson v. Fox* (1980) 28 Cal.3d 440, 449.). Indeed, respondent admitted consuming Fioricet, a controlled substance, prior to driving his vehicle, although he claims to have mistaken this for Duexis, a product containing ibuprofen. Respondent spent much effort criticizing the ER doctor's failure to diagnose mono, which respondent believed was the cause of his impairment, this is irrelevant to the fact that a blood sample tested positive for multiple controlled substances, including levorphanol, a Schedule II controlled substance that he had not been prescribed. Moreover, the police only brought respondent to the hospital for medical clearance because he suffered a fall; the purpose of the ED visit was not to determine a cause of his impairment. Thus, petitioner established there is a reasonable probability the board would prevail in the underlying action.

7. More significantly, a preponderance of evidence established that respondent's ability to practice medicine is impaired because he is mentally ill or has a drug dependency affecting competency. Dr. Nair's declaration and attacked evaluation report constituted the only competent medical evidence submitted. Dr. Nair outlined multiple reasons why he believed respondent's dependence on tramadol and mood disorder have impacted respondent's judgment such that he can safely practice. Although respondent clearly disagrees with Dr. Nair's conclusions, even suggesting that Dr. Nair himself is cognitively impaired, respondent presented no medical evidence (i.e. another independent psychiatric evaluation) to refute Dr. Nair's conclusions.

8. A preponderance of evidence established that permitting respondent to continue to practice medicine would endanger the public health, safety, and welfare. Respondents conduct throughout the board's investigation and during the pendency

of this hearing further support Dr. Nair's conclusions and demonstrate why immediate suspension is required. In particular, the multiple letters respondent wrote to the department's investigators and the email to DAG Martin highlight respondent's diminished judgment and insight. It is not uncommon for those who are subject to an investigation by the board to have grievances or complaints regarding the investigation, and even write letters to various officials expressing the same. However, respondent's letters reflect an inability to regulate his emotions and control his impulse of anger. The stream of conscious nature of the correspondence reflects an inability to exercise self-control, especially as it relates to his anger. The letters are histrionic, rambling and repetitive, replete with grammatical and spelling errors, and resort to name-calling and other vitriolic language. To call the letters unprofessional is an understatement – that a licensed physician would address representatives of the board in such a manner, raises serious concerns about respondent's mental stability and judgment. The characteristics on display in his correspondence have a direct nexus to his ability to safely practice medicine, where good judgment and impulse control are fundamental.

Respondent's letters also have a grandiose quality, where respondent asserts his knowledge, particularly of the law and medicine, are greater than anyone else's in this case. He made frequent assertions that others are grossly incompetent based on what respondent believes to be errors in their knowledge. Respondent's certitude in his belief, and his vitriolic attacks on those he disagrees with, permeate his correspondence. For example, respondent lambasted Dr. Nair and the board's medical consultant for maintaining that tramadol is an opioid, asserting that it is not an opioid because it is not derived from opium, and is only termed an opioid through "media misinformation." However, it is respondent who is incorrect. The drug's manufacturer

itself states it is a synthetic opioid, as do other reliable sources.⁸ While the drug does inhibit serotonin reuptake, it is an opioid, and respondent instead conflates the definition of an opioid (any type of substance, natural or synthetic, that binds to opioid receptors in the brain) with an opiate (a natural substance derived from an opium poppy plant). Similarly, respondent attacked both doctors because they believed that Fioricet is a controlled substance. In his February 21, 2021, letter to Dr. Thaete, he repeatedly lambasted Dr. Nuovo's "stupidity" for mistaking Fioricet with Fiorinal, which is a controlled substance. While Fioricet is not federally scheduled, it is a Schedule III controlled substance in California, which is why it correctly appears in CURES reports. In a single paragraph in a letter to Inv. Thaete, respondent erroneously stated no fewer than six times that Fioricet should not have been listed in the CURES system, and then attacked Inv. Thaete for not correcting the "mistake." Respondent also made multiple and vast assertions that various actors violated the law without providing any evidence based solely on his erroneous belief about what the law is. These examples are consistent with Dr. Nair's conclusions and highlight that a broader mental or physical condition is impairing respondent's ability to exercise good and appropriate judgement.

9. Respondent failed to accept any responsibility for his conduct or show any insight that would provide a factfinder with any basis to impose any restrictions on

⁸ The manufacturer product information for Ultram, the trade name for tramadol, states that tramadol is "a centrally acting synthetic opioid analgesic." (https://www.accessdata.fda.gov/drugsatfda_docs/label/2009/020281s032s033lbl.pdf.) Even the online version of the PDR, which respondent cites, lists tramadol as an "oral opioid analgesic." (<https://www.pdr.net/drug-summary/Ultram-tramadol-hydrochloride-950#3>.)

his license short of suspension. Until such time that respondent engages in appropriate mental health and/or medical treatment such that he can develop such insight and regulate his emotions and impulses, he is unsafe to practice medicine, and the continued practice of which endangers the public health, safety, and welfare.

ORDER

Physician's and Surgeon's Certificate No. G455750 issued to respondent Thomas L. Blair, M.D., is suspended. Pending further order or decision, respondent shall not practice medicine in the State of California.

During any period of interim suspension, starting with receipt of this Decision and Order, respondent shall surrender to the board or its agent, for safekeeping pending a final administrative order of the board in this matter, all indicia of his licensure as a physician under Business and Professions Code section 119, including her wall certificate and wallet card, all prescription forms, all prescription drugs not legally prescribed to respondent by his treating physician and surgeon, all Drug Enforcement Administration Drug Order forms, and all Drug Enforcement Administration permits.

DATE: November 2, 2021


Adam Berg (Nov 2, 2021 11:30 PDT)

ADAM L. BERG

Administrative Law Judge

Office of Administrative Hearings